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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Plaintiff,

v.

WINSTON SHROUT,

Defendant.

Case No. 3:15-cr-00438-JO

SECOND UNOPPOSED MOTION
TO CONTINUE SENTENCING
HEARING DATE

The defendant, Winston ShROUT, through counsel, Ruben L. Iñiguez, moves the Court to enter an Order continuing the current sentencing hearing date for 42 days (*i.e.*, until Tuesday, February 20, 2018). Sentencing is currently scheduled for January 9, 2018. This motion constitutes Mr. ShROUT's second unopposed request to continue the sentencing hearing date. Neither the government, through Assistant U.S. Attorney Stuart Wexler, nor the U.S. Probation Office, through Theresa Fuchs, opposes this motion.

BACKGROUND

On December 8, 2015, the government filed an Indictment charging Mr. Shrout with six misdemeanor violations of Title 26, United States Code, Section 7203 (willful failure to file tax return). ECF 1. Three months later, it filed a Superseding Indictment, adding 13 felony violations of Title 18, United States Code, Section 541 (fictitious obligations). ECF 17.

On April 18-21, 2017, Mr. Shrout appeared in court for a jury trial. ECF 102-105. On April 21, the jury returned guilty verdicts on all 19 counts. ECF 105. Following the verdicts, the Court scheduled a sentencing hearing for August 1, 2017. *Id.*¹

On June 8, 2017, Mr. Shrout met with U.S. Probation Officer Edie Frolichman in Portland for a presentence investigation report (“PSR”) interview. Approximately one month later, Ms. Frolichman retired. As a result, another probation officer, Theresa Fuchs, was reassigned the task of preparing the draft PSR.

The draft PSR has not been received by the parties yet. As a result, neither the government nor Mr. Shrout has had an opportunity to review it, or to submit any objections and/or clarifications. Once it is received, the parties’ objections to the draft

¹ On June 9, the government requested that the August 1 sentencing hearing date be continued until the last week of September. Neither Mr. Shrout nor the Probation Office opposed the request. *Id.* The Court granted the government’s request and continued the sentencing hearing until September 26. CR 116. On August 17, the Court granted Mr. Shrout’s first unopposed motion to continue the hearing date. CR 119. The sentencing hearing was reset for January 9, 2018. *Id.*

PSR will be due within 14 days. The parties' sentencing memoranda are currently due to be submitted to the Court on January 3, 2018.

Defense counsel is scheduled to be away from the office on annual leave for the upcoming Christmas holiday for approximately three weeks, that is, from December 9 through January 2. Assuming the draft PSR is received this week, it will be difficult, if not impossible, for counsel to review it, meet with Mr. Shrout to discuss it, and timely draft and submit any objections or clarifications. It will be equally difficult for counsel to prepare effectively for sentencing as he is not scheduled to return to the office until January 2, and the parties' sentencing materials are currently due to be submitted the next day, January 3. Both the PSR writer and counsel for the government indicate that additional time will assist them in meeting the above-referenced deadlines.

UNOPPOSED MOTION

A continuance of the current sentencing hearing date for 42 days (*i.e.*, to February 20, 2018) is necessary to afford both parties' a sufficient opportunity to review the draft PSR, consider and formulate any legal and/or factual objections, draft their objections, and submit them to the PSR writer for her review. Additional time is also necessary so that the PSR writer may consider the parties' objections and prepare both the final PSR and Addendum. Finally, a continuance is necessary to ensure that defense counsel, who will be out of the office from December 9 to January 2, is able to prepare effectively for

sentencing by meeting with Mr. Shrout in advance to review and discuss: (1) the draft PSR; (2) the objections and/or clarifications filed by the parties; (3) the final PSR; (4) the Addendum to the PSR; and (5) the sentencing materials submitted to the Court by both parties.

CONCLUSION

For each of the foregoing reasons, Mr. Shrout respectfully asks the Court to grant his unopposed motion to continue the current sentencing hearing date for 42 days (*i.e.*, until February 20, 2018).

RESPECTFULLY submitted this 4th day of December, 2017.

/s/ Ruben L. Iñiguez

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Assistant Federal Public Defender